

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

In Re:
SCOTT VINCENT VAN DYKE
Debtor(s)

§
§
§

Case No. 21-60052-CML

Chapter 7

**CHAPTER 7 TRUSTEE'S APPLICATION FOR RETENTION
OF JOHN MOSLEY AS CERTIFIED PUBLIC ACCOUNTANT
PURSUANT TO 11 U.S.C §327(a)**

LOCAL RULE 9013(b) NOTICE: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

Represented parties should act through their attorney.

COMES NOW Catherine S. Curtis, Chapter 7 Trustee, the Applicant, and files this *Application to Approve Employment of John Mosley as Certified Public Accountant Under 11 U.S.C. § 327(a)*, and in support respectfully represents:

1. **Background.** On May 25, 2021, VAN DYKE, SCOTT VINCENT filed a voluntary petition under chapter 7 of the Bankruptcy Code. Catherine Stone Curtis was appointed Chapter 7 Trustee (“the Trustee”) to administer the assets of the bankruptcy estate (“the Estate”). The Meeting of Creditors pursuant to Section 341 of the Bankruptcy Code (“the Meeting”) was concluded on May 20, 2022.
2. Applicant, as Trustee, wishes to employ John Mosley (“Mosley”) as Certified Public Accountant (“CPA”), as the CPA for the Estate, effective Thursday, December 14, 2023.
3. Applicant has considered the following categories and factors in selecting Mosley.

4. **Necessity for Employing CPA.** Applicant has determined to employ a CPA in this case for, among other reasons, to advise the Trustee regarding general tax matters of the Estate and the preparation of necessary federal tax forms and returns on behalf of the Estate. The experience in such matters of Mosley are discussed below.

5. **Name(s).** Applicant desires that John Mosley serve as Certified Public Accountant.

6. **Reasons for selecting the CPA.** Mosley is a sole practitioner who has been performing CPA services for bankruptcy trustees in the United States Bankruptcy Court for the Western District of Texas since 1996. The Trustee was referred to Mosley through her connections working with Bankruptcy Trustees in the Western District prior to her appointment. Mosley is well qualified to serve the Estate in this case due to his extensive experience in cases of similar size and complexity to the one at bar.

7. **Professional services the CPA will provide.** Applicant requires the services of a CPA to advise the Trustee regarding general tax matters of the Estate; prepare tax forms; and prepare and file all income tax returns for the Estate. In addition, pursuant to 11 U.S.C. §503(b), the Applicant requests permission from the Court authorizing and approving the payment of any taxes that may be due by the Estate as a result of the filed tax return.

8. **Proposed fee arrangement.** Mosley is being employed on an hourly basis at what the Trustee believes to be a reasonable hourly rate for the services that he will provide. Reimbursable expenses will be charged at the amounts incurred and no higher than the rates allowed by the Bankruptcy Local Rules for the Southern District of Texas. Applicant certifies that no payment will be made to Mosley except on order of the Court approving the fees and expenses incurred by Mosley. The rates of the CPA or other para-professionals involved in this representation are set forth below:

John Mosley: \$200.00/hour

It is further contemplated that said CPA will seek interim compensation during the case as permitted by 11 U.S.C. § 331.

9. **People with connections.** Neither the Applicant nor Mosley know of any

connections that Mosley has with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee.

10. **Qualifications of the CPA compared to the complexity of the case.**

A discussion of the qualification of Mosley to serve as the CPA for the Estate is set out in No. 6, *supra*. At this point, given the assets disclosed on Schedules, and the assets administered, the necessity of the Trustee to prepare and estate tax return with the possibility the estate will be incur a tax liability to the Internal Revenue Service.

11. **Whether the CPA is regularly hired by others for similar cases.** Mosley regularly serves as the CPA to bankruptcy trustees and has more than twenty (20) years of experience as a tax professional with this type of work.

12. **Time commitment required.** Applicant has considered the likely staffing needs for the matters that appear likely to arise, based on her preliminary analysis of the case. Applicant consulted with Mosley to be certain that the representation is consistent with his other commitments and level of experience.

13. **Availability of other qualified professionals.** Though the Southern District of Texas boasts many competent CPAs, the Applicant believes that Mosley is best suited to serve as the CPA for the Estate in this case, given his experience in cases of similar size and complexity.

14. Applicant requests that Mosley's employment be made effective on December 14, 2023, and that Mosley be employed on an hourly fee basis, with each professional and legal assistant to charge his or her regular hourly rate as laid out in the Application. No payments shall be made to Mosley except upon Court ordered-approval of his fees and expenses in connection with this case.

WHEREFORE, the Trustee prays that the employment of John Mosley as Certified Public Accountant for the estate in the areas described above with compensation to be paid as an administrative expense in such amounts as this Court may hereinafter determine and allow.

Respectfully submitted,

Date: January 4, 2024

/s/CATHERINE STONE CURTIS

Catherine Stone Curtis

TBN: 24074100

Federal ID No.: 1129434

MCGINNIS LOCHRIDGE

P.O. Box 720788

McAllen, TX 78504

Ph: (956) 489-5958

Fax: (956) 331-2304

Email: ccurtis@mcginnislaw.com

Chapter 7 Trustee

CERTIFICATE OF SERVICE

I hereby certify that I served this *Application to Employ* only on the United States Trustee, by ECF notification on January 4, 2024, as it is allowed to be submitted *ex parte* under BLR 9003.

/s/CATHERINE STONE CURTIS

CATHERINE STONE CURTIS